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VALLEY UNIFIED SCHOOL DISTRICT;
EDWARD WONG, TRICIA OSBORNE, and
CHAD JOHNSON

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PHILLIP BELL JR.; LORNA BARNES; and
ANTHONY BARNES.

Plaintiffs, v.

SADDLEBACK VALLEY UNIFIED
SCHOOL DISTRICT; KLUTCH SPORTS;
NEXT LEVEL SPORTS & ACADEMICS;
and ISAHIA SANDOVAL; EDWARD
WONG TRICIA OSBORNE, CHAD
JOHNSON; STEVE BRISCOE, AND DOES
1-20
in their individual and official capacities.

Defendants.

Case No. 4:24-CV-05545-JST

**REPLY TO PLAINTIFFS' OPPOSITION TO
DEFENDANTS' MOTION TO DISMISS**

ORAL ARGUMENT REQUESTED

Date: March 20, 2025
Time: 2:00 P.M.
Ctrm.: 6

Assigned to: Hon. Judge Jon S. Tigar

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I. INTRODUCTION TO REPLY

Defendants, SADDLEBACK VALLEY UNIFIED SCHOOL DISTRICT (“District”); EDWARD WONG, TRICIA OSBORNE, and CHAD JOHNSON (“District Individual Defendants”), submit this Reply Brief in response to Plaintiffs’ Opposition in Defendants’ Motion to Dismiss Pursuant to Rule 12(b)(3) and 12(b)(6).

Plaintiffs’ Opposition completely misses the mark as to each of the separate grounds for the Motion to Dismiss. In response to Defendants’ motion for dismissal due to the improper venue, and the request to transfer the venue to the Central District, Plaintiffs merely realleged that United States District Court for the Northern District of California is the proper venue on the basis that the custody agreement is established in San Francisco, California, and Plaintiffs live in the Northern District of California and claim (Opposition at page 10.) Plaintiffs’ residency is wholly irrelevant and not a determining factor for venue under 28 U.S.C. § 1391(b)(1). Plaintiffs further make the conclusory statement that Plaintiffs meet the burden to establish that the Northern District is the proper venue under 28 U.S.C. § 1391(b)(2) given the substantial connection to the Northern District. (Opposition at page 11.) When determining whether the venue is proper under 28 U.S.C. § 1391(b)(2), the court will focus on the Defendants’ activities, not Plaintiffs’. (See, *Knuttel v. Omaze, Inc.* 572 F.Supp.3d 866, 869 (N.D. Cal. 2021).) The establishment of custody agreement is indeed Plaintiffs’ activity. As most of the alleged unlawful activities occurred within the Central District, it is reasonable to infer that most witnesses can be found in Central District rather than Northern District, thereby better serving the interests of justice and promoting access to and convenience for witnesses. Furthermore, Plaintiffs have failed to state a claim for every cause of action against Defendants. Thus, the Court should dismiss without leave to amend pursuant to Federal Rule of Civil Procedure 12(b)(3) and Federal Rule of Civil Procedure 12(b)(6).

Furthermore, Plaintiffs have failed to state a claim under Rule 12(b)(6) for any of their causes of action, which include both federal and state law claims. Plaintiffs’ Section 1983 claims fail because Plaintiffs failed to establish that Defendants’ conduct was carried out under color of state law and deprived Plaintiffs of constitutional rights. The Monell claims similarly fail because Plaintiffs failed to establish that there is a direct causal link between a municipal policy or custom

1 and the alleged constitutional deprivation. In addition, Plaintiffs’ state law claims are unsupported
 2 by both facts and legal precedent, conclusory in nature, and/or legally barred. Thus, the Court should
 3 dismiss without leave to amend pursuant to Federal Rule of Civil Procedure 12(b)(3) and Federal
 4 Rule of Civil Procedure 12(b)(6).

5 **II. LAW AND ARGUMENT**

6 **A. Plaintiffs Fail To Establish That The Northern District Is The Proper Venue For** 7 **Defendants Under 28 U.S.C. § 1391(b)**

8 Plaintiffs’ opposition simply realleged that United States District Court for the Northern
 9 District of California is the proper venue on the basis that the violation of the custody orders
 10 occurred in San Francisco, California, and Plaintiffs live in the Northern District of California
 11 (Opposition at page 10.) Under 28 U.S.C. § 1391(b)(1), **venue is proper in any district where a**
 12 **defendant “resides.”** (*Knuttel v. Omaze, Inc.* 572 F.Supp.3d 866, 870 (N.D. Cal. 2021).) A
 13 corporate defendant resides in a district if they have engaged in intentional conduct “expressly
 14 aimed” towards a district that caused “harm that the defendant [knew was] likely to be suffered”
 15 there. (*Id.*) Thus, Plaintiffs’ residency is not the determining factor for venue under 28 U.S.C. §
 16 1391(b)(1).

17 Plaintiffs further make the conclusory statement that Plaintiffs meet the burden to establish
 18 that the Northern District is the proper venue under 28 U.S.C. § 1391(b)(2) given the substantial
 19 connection to the Northern District. (Opposition at page 11.) In the case of *Knuttel v. Omaze, Inc.*
 20 572 F.Supp.3d 866 (N.D. Cal. 2021), the court emphasized that “under 28 U.S.C. § 1391(b)(2),
 21 **venue is proper in the district where ‘a substantial part of the events or omissions giving rise**
 22 **to the claim occurred.’ This substantiality inquiry focuses on the ‘relevant activities of the**
 23 **defendant, not of the plaintiff.’** (*Woodke v. Dahm*, 70 F.3d 983, 985 (8th Cir. 1995). And “[o]nly
 24 the events that directly give rise to a claim are relevant.’ *Lawler v. Tarallo*, No. C 13-03284 MEJ,
 25 2013 WL 5755685, at *3 (N.D. Cal. Oct. 23, 2013) (simplified).” (*Knuttel v. Omaze, Inc.* 572
 26 F.Supp.3d 866, 869. (N.D. Cal. 2021).) (**Emphasis added.**) “**Venue is intended to preserve the**
 27 **element of fairness so that a defendant is not haled into a remote district having no real**
 28 **relationship to the dispute.** *Cottman Transmission Sys., Inc. v. Martino*, 36 F.3d 291, 294 (3d Cir.

1994). As a result, **the venue inquiry focuses on the defendant's activities**, not the plaintiff's. *Woodke*, 70 F.3d at 985.” (*Knuttel v. Omaze, Inc.* 572 F.Supp.3d 866, 870 (N.D. Cal. 2021).) **(Emphasis added.)**

Here, Plaintiffs' Opposition asserts that there is a substantial connection to the Northern District as the alleged existing custody agreement is established in the Northern District. (Opposition at page 10.) However, any custody agreement would solely relate to Plaintiffs' activities, and not the Defendants, making it irrelevant to the venue analysis. When determining whether the venue is proper under 28 U.S.C. § 1391(b)(2), the court will focus on the Defendants' activities, not the Plaintiffs'. (See, *Knuttel v. Omaze, Inc.* 572 F.Supp.3d 866, 870 (N.D. Cal. 2021).) Plaintiffs incorrectly assert a vague and conclusory statement that two of Co-defendants' actions are central to Plaintiffs' claims and then established the substantial connection. (Opposition at page 10.) Indeed, per Plaintiffs' own FAC, all events leading to the Complaint happened within the boundaries of the Saddleback Valley Unified School District, which is within the Central District, and the alleged unlawful actions including the alleged violation of custody agreement conducted and performed by Defendants also incurred within the boundaries of the Saddleback Valley Unified School District. (See Plaintiffs' FAC at ¶¶ 74, 76, 90, 93-94, 96-100, 101, 113, 116-119.) Courts must look “not to a single triggering event prompting the action, but to the entire sequence of events underlying the claim.”. (*Knuttel v. Omaze, Inc.* 572 F.Supp.3d 866, 870 (N.D. Cal. 2021), Citing *Norsworthy v. Diaz*, 20-CV-01859-JST, 2020 WL 10965424, at *2 (N.D. Cal. June 10, 2020) (simplified).).

Here, Plaintiffs allegations of Defendants' conduct, including alleged events that District making the decision to enroll Phillip III at Mission Viejo High School without Plaintiffs' consent, failing to disclose to Plaintiffs the address of Phillip III; interfering with Plaintiffs' rights by making promises to Phillip III that he would be able to participate in football even if he did not have any consent from Plaintiffs.(See Opposition at page 3, 7) The FAC asserts that all these alleged events that are purported to give rise to this action occurred in the Central District trigger Plaintiffs' claims against Defendants. Given that Defendants' activities occurred in Orange County, falling the jurisdiction of Central District rather than Northern District, there is substantial connection to Central District. Thus, Plaintiffs fail to state that the Northern District is the proper venue for

1 Defendants under 28 U.S.C. § 1391(b)(2).

2 Moreover, Plaintiffs make the conclusory statement that the transfer of venue will
 3 inconvenience other parties and unidentified witnesses. (Opposition at page 11.) Plaintiffs further
 4 allege that co-defendants Steve Briscoe and Next Level Sports & Academics are based in the
 5 Northern District (Opposition at page 10) and Co-defendant Klutch Sports' registered agent in
 6 Sacramento, California, which is geographically closer to the Northern District than the Central
 7 District. (Opposition at page 11.) The purpose of 28 U.S.C. § 1404(a) is to “prevent the waste of
 8 time, energy, and money and to protect litigants, witnesses, and the public against unnecessary
 9 inconvenience and expense.” (*Saunders v. USAA Life Insurance Company* 71 F.Supp.3d 1058,
 10 1059–1060 (N.D. Cal. 2014); *Citing Van Dusen v. Barrack*, 376 U.S. 612, 616, 84 S. Ct. 805, 11
 11 L.Ed.2d 945 (1964).) In the present case, Plaintiffs claim nine causes of action: three federal claims
 12 and six state claims and all of them filed against the Defendant District and/or District Individual
 13 Defendants. Throughout Plaintiffs’ First Amended Complaint, Plaintiffs’ alleged factual basis for
 14 their causes of action almost all occurred in within the Central District. Thus, it can be reasonably
 15 inferred that most witnesses, including, but not limited to, other students, administrators, counselors,
 16 teachers, coaches, and neighbors¹, would be found in the Central District rather than the Northern
 17 District. In assessing whether the convenience of the witnesses favors transfer, the Court must
 18 consider both the location and number of witnesses each side has and the relative importance of
 19 those witnesses. (*Rubio v. Monsanto Company* (C.D. Cal. 2016) 181 F.Supp.3d 746, 763, [Internal
 20 Citation Omitted].) A district court may transfer an action to a different district court under 28
 21 U.S.C. § 1404(a). Section 1404(a) permits a court to transfer an action “[f]or the convenience of
 22 parties and witnesses” and “in the interest of justice,” so long as the action could have been filed in
 23 the transferee district in the first instance. (*Rubio v. Monsanto Company* (C.D. Cal. 2016) 181
 24 F.Supp.3d 746, 759) The district court must “adjudicate motions for transfer [of venue] according
 25 to an individualized, case-by-case consideration of convenience and fairness.” (*Rubio v. Monsanto*
 26 *Company* 181 F.Supp.3d 746, 759 (C.D. Cal. 2016); citing *Jones v. GNC Franchising, Inc.*, 211

27 _____
 28 ¹ It is important to note that discovery has not yet begun and actual witnesses’ identities are unknown at this time.

1 F.3d 495, 498 (9th Cir.2000).) Given that the majority of events took place within the Central
 2 District, it is reasonable to infer that most witnesses would be found in the Central District, thereby
 3 ensuring fairness and serving the interests of justice. As such, Defendants are entitled to dismiss for
 4 the improper venue and request for transfer of venue.

5 **B. Plaintiffs’ Opposition Is Vague And Failed To State A Claim For Every Cause Of Action**

6 **1. Plaintiffs fail to state a claim for the First Cause of Action for Violation of the**
 7 **Fourteenth Amendment.**

8 Plaintiffs’ Opposition merely reiterates the allegations made in the First Amended
 9 Complaint. Plaintiffs still failed to state sufficient facts that District Individual Defendants acting
 10 under the authorities of the state law exceeded those authorities. Furthermore, Plaintiffs misapply
 11 the case of *Troxel v. Granville* (2000) 530 U.S. 57. In the case of *Troxel v. Granville* (2000) 530
 12 U.S. 57, it addresses the issue that whether a specific state law that allowed third parties to seek
 13 visitation rights—despite parental objections—violated parents’ fundamental constitutional rights
 14 under the Due Process Clause of the Fourteenth Amendment. (*Ibid.*) Here, no state law or statute
 15 identified by Plaintiffs. There are two elements to a section 1983 claim: (1) the conduct complained
 16 of must have been under color of state law, and (2) the conduct must have subjected the plaintiff to
 17 a deprivation of constitutional rights. (*Jones v. Community Redevelopment Agency of City of Los*
 18 *Angeles* 733 F.2d 646, 649 (9th Cir. 1984), citing *Williams v. Gorton*, 529 F.2d 668, 670 (9th
 19 Cir.1976).) In the present action, first, Plaintiffs fail to state any facts that individual defendants
 20 acting under the authority of the state law exceeded those authorities or constitute the state action.
 21 Second, no fact suggests in the opposition or pleadings that the conduct authorized by state law
 22 subjected the plaintiff to a deprivation of constitutional rights. (*Ibid.*)

23 Furthermore, Plaintiffs must allege with at least some degree of particularity overt acts which
 24 Defendants engaged in that support Plaintiffs’ claim. (*Jones v. Community Redevelopment Agency*
 25 *of City of Los Angeles* 733 F.2d 646, 649 (9th Cir. 1984), [Internal quotation omitted])
 26 “Conclusionary allegations, unsupported by facts, [will be] rejected as insufficient to state a claim
 27 under the Civil Rights Act.” (*Ibid.*) Plaintiffs’ alleged facts fail to constitute “some degree of
 28 particularity overt acts which defendants engaged in” that support the plaintiffs’ claims. If a plaintiff

1 is asserting a § 1983 claim for deprivation of their right to familial association under the Fourteenth
 2 Amendment, they must show that the official's conduct “shocks the conscience.” (*Porter v. Osborn*,
 3 546 F.3d 1131, 1137 (9th Cir. 2008).) “A plaintiff can show that an official’s conduct ‘shocks the
 4 conscience’ by showing deliberate indifference or a purpose to harm. The deliberate indifference
 5 test applies only when actual deliberation is practical.” (*Calonge v. City of San Jose* 523 F.Supp.3d
 6 1101, 1105 (N.D. Cal. 2021), [Internal citation omitted].) Furthermore, “[M]ere negligence by state
 7 officials in the conduct of their duties resulting in temporary interference with familial rights does
 8 not trigger the substantive due process protections of the Fourteenth Amendment.” (*McCue v. South*
 9 *Fork Union Elementary School* 766 F.Supp.2d 1003, 1009 (E.D. Cal. 2011).) Here, Plaintiffs’
 10 opposition merely make the conclusory statement that the alleged actions “shocks the conscience”.
 11 No sufficient facts suggest that the Individual Defendants committed the alleged actions with actual
 12 deliberation or a purpose to harm. Plaintiffs baselessly allege that Defendants’ behavior deprived
 13 Plaintiffs’ constitutional rights. A plaintiff must allege that they suffered a specific injury and show
 14 a causal relationship between the defendant’s conduct and the injury suffered. (*Gutzalenko v. City*
 15 *of Richmond*) 723 F.Supp.3d 748, 756 (N.D. Cal. 2024.) Plaintiffs’ opposition fails to state sufficient
 16 facts that there is a causal relationship between the defendant’s conduct and the injury suffered.

17 **2. Plaintiffs fail to state a claim for the Second and Ninth Causes of Action for *Monell*.**

18 Similarly, Plaintiffs’ opposition merely reiterates the allegations in Plaintiffs’ first Amended
 19 Complaint for the Dismissal of Second and Ninth causes of action for *MONELL* claim under 42
 20 U.S.C. § 1983. Plaintiffs’ opposition alleges that the District maintained an unofficial policy or
 21 longstanding practice of “putting the child first,” contravening official policies and Plaintiffs’
 22 constitutional rights. (Opposition at page 15.) Plaintiffs’ opposition is both vague and unintelligible.
 23 The alleged unofficial policy or longstanding practice of “putting the child first” that Plaintiffs rely
 24 on is far more nebulous, and a good deal further removed from the constitutional violation, than was
 25 the policy in *Monell*. (See, *City of Oklahoma City v. Tuttle* 471 U.S. 808, 821 (1985).) Furthermore,
 26 “absent a formal governmental policy, plaintiff must show a longstanding practice or custom which
 27 constitutes the standard operating procedure of the local government entity”. (*Trevino v. Gates* 99
 28 F.3d 911, 918 (9th Cir. 1996) holding modified by *Navarro v. Block* 250 F.3d 729 (9th Cir. 2001).)

1 “The custom must be so “persistent and widespread” that it constitutes a “permanent and well settled
 2 city policy. Liability for improper custom may not be predicated on isolated or sporadic incidents;
 3 it must be founded upon practices of sufficient duration, frequency and consistency that conduct has
 4 become a traditional method of carrying out policy. *Bennett v. City of Slidell*, 728 F.2d 762, 767
 5 (5th Cir.1984); see also, *Meehan v. Los Angeles County*, 856 F.2d 102 (9th Cir.1988) (two incidents
 6 not sufficient to establish custom); *Davis v. Ellensburg*, 869 F.2d 1230 (9th Cir.1989) (manner of
 7 one arrest insufficient to establish policy).” (*Ibid.*)

8 Here, Plaintiffs make boilerplate allegations that are conclusory, vague and lacked sufficient
 9 factual support. Specifically, Plaintiffs fail to prove the existence of a widespread practice that, is
 10 so permanent and well settled as to constitute a custom or usage with the force of law. (*Mitchell v.*
 11 *County of Contra Costa* 600 F.Supp.3d 1018, 1028 (N.D. Cal. 2022). [internal citation omitted])
 12 Most importantly, “to sufficiently establish a Monell claim, Plaintiff must show the municipal action
 13 was the moving force behind the alleged constitutional violation. *Canton*, 489 U.S. at 385, 109 S.Ct.
 14 1197 (a plaintiff must establish ‘a **direct causal link between a municipal policy or custom and**
 15 **the alleged constitutional deprivation**’).” (*Segura v. City of La Mesa* 647 F.Supp.3d 926, 940
 16 (S.D. Cal. 2022). [**Emphasis Added**]) To meet the “moving force” requirement, a plaintiff “must
 17 show both causation-in-fact and proximate causation.” (*Ibid.* Citing *Gravelet-Blondin v. Shelton*,
 18 728 F.3d 1086, 1096 (9th Cir. 2013). Plaintiffs merely allege “formulaic recitation” of causation
 19 found to be insufficient to prove the causation. (See *Segura v. City of La Mesa* 647 F.Supp.3d 926,
 20 940 (S.D. Cal. 2022).)

21 Furthermore, Plaintiffs’ argument based on the case of *Pembaur v. City of Cincinnati*, 475
 22 U.S. 469, 481 (1986) is misplaced. In the case of *Pembaur v. City of Cincinnati*, 475 U.S. 469, 481
 23 (1986), the court emphasizes that “not every decision by municipal officers automatically subjects
 24 the municipality to § 1983 liability. Municipal liability attaches only where the decisionmaker
 25 possesses final authority to establish municipal policy with respect to the action ordered. The fact
 26 that a particular official—even a policymaking official—has discretion in the exercise of particular
 27 functions does not, without more, give rise to municipal liability based on an exercise of that
 28 discretion.” (*Pembaur v. City of Cincinnati* 475 U.S. 469, 481–482 (1986).) The requirement of

1 *Monell v. New York City Dept. of Social Services*, 436 U.S. 658, 98 S.Ct. 2018, 56 L.Ed.2d 611, that
 2 municipal liability under § 1983 can only be imposed for injuries inflicted pursuant to Government
 3 “policy or custom,” makes it clear that, at the least, that requirement was intended to prevent the
 4 imposition of municipal liability under circumstances where no wrong could be ascribed to
 5 municipal decisionmakers. (*City of Oklahoma City v. Tuttle* 471 U.S. 808, 809 (1985).) Plaintiffs’
 6 vague and conclusory allegations are insufficient to establish a viable cause of action against the
 7 District under *Monell*.

8 **3. Plaintiffs fail to state a claim for the Third Cause of Action for Negligence.**

9 Plaintiffs’ Opposition fails to overcome the fundamental flaw in their negligence claim: the
 10 duty of care arising from a school’s special relationship with their students flows exclusively to
 11 students, not to their parents or grandparents. Plaintiffs clearly concede in their opposition that
 12 schools “have a ‘special relationship’ with their students, obligating them to use reasonable
 13 measures to protect students from foreseeable harm.” (Plaintiffs’ Opposition at p. 16.) A school’s
 14 obligation to use reasonable measures to protect students from foreseeable harm does not create a
 15 parallel duty to their parents or grandparents. The duty recognized in *C.A. v. William S. Hart Union*
 16 *High Sch. Dist.*, 53 Cal.4th 861 (2012), exists only by virtue of the special relationship between
 17 schools and their students. This duty to protect students from foreseeable harm does not create a
 18 corresponding duty to parents to ensure compliance with CIF regulations or enforce their parental
 19 rights in family disputes. Plaintiffs’ attempt to reframe the District’s obligations to students as a
 20 parallel duty owed to their parents is unsupported by California law.

21 The purported actions that Plaintiffs allege, such as enrolling Philip Bell III, facilitating his
 22 participation in athletics, overseeing his daily activities, or providing him housing and sustenance,
 23 do not constitute a failure to protect the student from foreseeable harm. Plaintiffs’ reliance on alleged
 24 violations of CIF and District policies or court orders is misplaced, as these issues do not fall within
 25 the scope of the special duty of care recognized in *C.A. v. William S. Hart Union High School*
 26 *District, supra.*, and Plaintiffs fail to explain how the District’s alleged noncompliance with these
 27 external policies equates to a breach of a duty of care to the student under the special relationship
 28 doctrine. Plaintiffs do not allege that the District exposed Phillip Bell III to any danger or failed to

1 intervene in a foreseeable risk of harm to him. Instead, they are attempting to use the student-focused
 2 duty of care as a basis for their own negligence claim against the District. Defendant reiterates that
 3 a special relationship between a school and its students does not impose any obligation on the district
 4 to protect parents or any other off-campus third parties from emotional distress or to ensure their
 5 mental or emotional well-being.

6 Further, Plaintiffs misrepresent their own allegations in their Opposition. Plaintiffs’
 7 Opposition makes conclusory claims that the District’s actions resulted in “significant emotional
 8 and psychological harm to both Plaintiffs and Phillip Bell III.” (Plaintiffs’ Opposition at p.16, citing
 9 FAC ¶ 137.) However, Paragraph 137 of the First Amended Complaint alleges harm only to
 10 Plaintiffs themselves, not Phillip Bell III. Plaintiffs are not bringing claims on behalf of Phillip Bell
 11 III, nor is Phillip Bell III a plaintiff in this case. Plaintiffs’ attempt to reference harm to the student
 12 in their Opposition is misleading and inconsistent with their own Complaint. Because Plaintiffs fail
 13 to establish that the District breached a duty of care owed to the student and instead base their
 14 negligence claim on alleged harm to themselves, despite having no legal basis for such a duty, their
 15 Third Cause of Action must be dismissed.

16 **4. Plaintiffs fail to state a claim for the Fourth Cause of Action for Negligence under**
 17 **Respondeat Superior.**

18 Plaintiffs’ Opposition fails to establish that the District or its agents breached any duty of
 19 care owed to Plaintiffs, nor does it cure the fundamental defect in their claim: the duty of care arising
 20 from a school’s special relationship flows exclusively to students, not to their parents or guardians.
 21 Plaintiffs again concede that school personnel have a special duty to use reasonable measures to
 22 protect students from foreseeable harm, but also attempt to expand this duty beyond its legal scope
 23 by claiming that the duty “extends to actions that may interfere with the custodial rights of parents.”
 24 (Plaintiffs’ Opposition at pp.18-19.) However, Plaintiffs provide no statutory or case authority
 25 whatsoever to support such an expansion of a school’s legal duty to protect students from
 26 foreseeable harm. The duty recognized in *C.A. v. William S. Hart Union High School District*,
 27 *supra.*, is explicitly limited to protecting students from foreseeable harm at the hands of third parties
 28 acting negligently or intentionally, not asserting parental rights or private custody arrangements on

1 parents' behalf. (*C.A. v. William S. Hart Union High Sch. Dist.*, 53 Cal.4th 861, 869 (2012).)

2 Plaintiffs claim that the District's legal counsel "explicitly acknowledged" a duty by
 3 allegedly assuring Plaintiffs' counsel that no staff member would contact Phillip Bell III without
 4 parental consent. (Plaintiffs' Opposition at p.18.) Yet, Plaintiffs fail to specify which legal duty the
 5 District and its agents allegedly assumed as a result. Plaintiffs reference an email from the District's
 6 legal counsel stating that the District employees "are not currently in communication with Philip."
 7 (FAC ¶ 89.) Plaintiffs provide no legal basis establishing how such statements subsequently imposed
 8 a legally enforceable duty on the District and its agents. Even if such assurances were made, as
 9 Plaintiffs allege, they do not alter the principle that a school's duty owing to its special relationship
 10 with its students runs solely to students, not their parents. Plaintiffs' Opposition is filled with
 11 numerous conclusory allegations of duties purported to have been violated by the District and its
 12 agents, yet none of which are properly identified or supported under any legal authority. Further,
 13 none of these alleged duties have any relation to school officials' special relationship with students
 14 and their duty to use reasonable measures to protect students from foreseeable harm.

15 Finally, Plaintiffs' Opposition fails to address Defendants' argument that the District is not
 16 liable for negligent hiring, retention, or supervision, as set forth in the Motion to Dismiss. Plaintiffs
 17 offer no argument in opposition to Defendants' position that Plaintiffs failed to plead any facts
 18 showing that the District or its agents had any knowledge of a particular risk of harm or of an agent's
 19 propensity for wrongful conduct. Because Plaintiffs fail to identify a legally cognizable duty
 20 allegedly assumed by the District and its agents, and fail to provide any legal support for the duties
 21 they claim the District and its agents assumed, Plaintiffs' Fourth Cause of Action for Negligence
 22 under Respondeat Superior must be dismissed.

23 **5. Plaintiffs fail to state a claim for the Fifth Cause of Action for IIED.**

24 Plaintiffs' Opposition fails to establish that the District or its agents engaged in extreme and
 25 outrageous conduct that exceeds all bounds of that usually tolerated in a civilized community, nor
 26 does it allege facts demonstrating an intent by the District and its agents to cause or a reckless
 27 disregard for the probability of causing severe emotional distress. Plaintiffs merely restate the same
 28 conclusory allegations that the District's actions were extreme and outrageous.

1 Plaintiffs cite no statute, case law, or legal doctrine demonstrating that the District's alleged
2 conduct meets the high legal standard for IIED. Plaintiffs allege in their opposition that the District's
3 conduct was extreme and outrageous because it allowed Sandoval, who was allegedly involved in
4 Samantha's death, to have unsupervised contact with Phillip Bell III, enrolled him in school, and
5 facilitated his travel without notifying Plaintiffs. (Plaintiffs' Opposition at pp.19-20.) However,
6 Plaintiffs reference no authorities nor cite a single case where conduct comparable to the District's
7 alleged actions was deemed extreme and outrageous under California law.

8 Plaintiffs claim that the District acted with reckless disregard of the high probability of
9 causing severe emotional distress to Plaintiffs. (Plaintiffs' Opposition at p.20.) "[W]hen the
10 plaintiff's claim is based on alleged recklessness, it is generally, if not always, required that the
11 plaintiff be present at the time the outrageous conduct occurred." (*Ess v. Eskaton Properties, Inc.*,
12 97 Cal. App. 4th 120, 131 (2002) (citing *Christensen v. Superior Ct.*, 54 Cal. 3d 868, 906 (1991)).)
13 Plaintiffs do not allege that they were present when any of the District's alleged actions took place,
14 nor do they establish that the District's conduct amounted to a reckless disregard of the probability
15 of causing emotional distress. Plaintiffs argue that Defendants were aware of their concerns
16 regarding Sandoval and the existing court order mandating that Philip III reside in Northern
17 California, yet allegedly concealed his whereabouts, listed Sandoval as a guardian, and facilitated
18 his travel. (Plaintiffs' Opposition at p. 23.) However, Plaintiffs conflate an alleged disregard for
19 their custodial rights with reckless disregard for the probability of causing severe emotional distress.
20 The standard for reckless disregard under IIED is not whether a defendant simply knew the plaintiff
21 opposed certain actions but whether the defendant acted with conscious disregard of the probability
22 that such actions would cause severe emotional distress. Plaintiffs fail to allege that Defendants
23 engaged in any conduct with knowledge that it would likely cause Plaintiffs the type of severe
24 emotional distress required for IIED, rather than mere frustration or disagreement. Plaintiffs' failure
25 to cite any cases comparable to the District's alleged actions further demonstrates the insufficiency
26 of their claim for IIED.

27 Because Plaintiffs fail to allege extreme and outrageous conduct, fail to establish reckless
28 disregard for the probability of causing severe emotional distress, failed to show that the conduct

1 was directed at Plaintiffs or occurred in their presence, and provide no authorities demonstrating
 2 that the District's alleged actions meet the standard for IIED, Plaintiffs' Fifth Cause of Action for
 3 IIED under Respondeat Superior must be dismissed.

4 **6. Plaintiffs fail to state a claim for the Sixth Cause of Action for NIED.**

5 Plaintiffs' Opposition fails to overcome the deficiencies in their claim for Negligent
 6 Infliction of Emotional Distress. Plaintiffs continue to rely only on conclusory allegations while
 7 failing to establish that the District or its agents owed them a duty of care, breached any such duty,
 8 or caused them harm. Again, Plaintiffs correctly state that schools have a "special relationship" with
 9 their students which obligates them to take reasonable measures to protect students from harm.
 10 (Plaintiffs' Opposition at p.21.) Plaintiffs fail to address the key issue: there is no special relationship
 11 between the District and a student's parents that imposes upon the District a duty to protect the
 12 parents from foreseeable harm by third parties. As the District has reiterated numerous times, the
 13 duty arising from a school's special relationship with its students flows exclusively to students, not
 14 their parents or grandparents. Plaintiffs cite no authority extending this duty to parents, nor do they
 15 explain how the alleged actions of the District violated any duty owed directly to Plaintiffs. Plaintiffs
 16 attempt to rely on the special duty that school districts owe to their students in order to assert claims
 17 against the school on their own behalf, but fail to provide any legal basis for this argument.

18 Moreover, Plaintiffs fail to overcome the District's statutory immunity under California
 19 Government Code § 815. While Plaintiffs attempt to rely on California Government Code § 815.2(a)
 20 to impose vicarious liability on the District's agents, this argument fails because they have not
 21 established that any individual District employee committed a negligent act beyond mere conclusory
 22 allegations. Without facts to support negligent conduct by the District or its agents, there is no basis
 23 for NIED, and Plaintiffs' reliance on § 815.2(a) is unavailing.

24 Because Plaintiffs have failed to show that the District or its agents owed them a duty, failed
 25 to overcome the District's statutory immunity, and failed to establish any underlying negligence by
 26 the District or its agents, their Sixth Cause of Action for NIED must be dismissed.

27 **7. Plaintiffs fail to state a claim for the Seventh Cause of Action for IIED.**

28 As the District has stated in the Motion to Dismiss, Plaintiffs' Seventh Cause of Action for

1 IIED fails for the same reason as its Fifth Cause of Action for IIED. Plaintiffs' Opposition fails to
 2 establish that the District or its agents engaged in extreme and outrageous conduct or that Defendants
 3 acted with reckless disregard for the probability of causing severe emotional distress. Again,
 4 Plaintiffs rely on conclusory allegations without providing any legal authorities that support their
 5 claim for IIED.

6 Plaintiffs allege that the District's conduct was extreme and outrageous because it placed
 7 Phillip Bell III in close proximity of Sandoval, enrolled him in school, concealed his location, and
 8 facilitated his travel to Hawaii for a football game. (Plaintiffs' Opposition at p.23.) However, as in
 9 the Fifth Cause of Action, Plaintiffs cite no legal authority whatsoever establishing that actions
 10 comparable to those alleged here have ever been found to constitute extreme and outrageous conduct
 11 under California law. Moreover, Plaintiffs' Opposition mischaracterizes the allegations in their own
 12 Complaint. Plaintiffs claim in their Opposition that the District's agents "directly endangered Philip
 13 III's safety" as a basis for extreme and outrageous conduct. (Plaintiffs' Opposition at p.22.)
 14 Plaintiffs' FAC, however, contains no allegations that the District or its agents directly endangered
 15 Philip III's physical safety. Instead, the FAC focuses on allegations that the District enrolled him in
 16 school, listed Sandoval as a guardian, facilitated his travel to Hawaii, and failed to notify Plaintiffs
 17 of his whereabouts. (FAC alleges that the district facilitated his enrollment, allowed him to play
 18 football, allowed him to travel to Hawaii, and violated Plaintiffs' parental custodial rights by
 19 concealing his whereabouts. (FAC ¶¶ 74, 93, 96, 100.) Plaintiffs attempt to elevate these allegations
 20 in their Opposition by now claiming that the District "directly endangered" Philipp III, but this
 21 allegation appears only in their Opposition and not in the FAC.

22 As stated above, Plaintiffs also fail to establish that Defendants and their agents acted with
 23 reckless disregard of the probability of causing severe emotional distress. Plaintiff cites the case of
 24 *Dawn D. v. Superior Court*, 17 Cal. 4th 932, 938 (1998), which is a parental and paternity case
 25 having nothing whatsoever to do with IIED. Plaintiffs claim that interfering with "a parent's right
 26 to the care and custody of their child" is inherently directed at the parent and cites *Dawn D., supra.*,
 27 to support this proposition. However, *Dawn D., supra.*, does not make this assertion in the context
 28 of tort law or IIED, nor does it define what qualifies as conduct "directed at" a party for the purposes

1 of IIED. *Dawn D.*, *supra.*, does not establish that alleged interference with parental rights
 2 automatically satisfies the requirement that extreme and outrageous conduct be “directed at the
 3 plaintiff or occur in the presence of a plaintiff of whom the defendant is aware.” (*Christensen v.*
 4 *Superior Ct.*, 820 P.2d 181, 202 (1991).)

5 As in the Fifth Cause of Action, because Plaintiffs fail to allege extreme and outrageous
 6 conduct, fail to establish reckless disregard for the probability of causing severe emotional distress,
 7 failed to show that the conduct was directed at Plaintiffs or occurred in their presence, and provide
 8 no authorities demonstrating that the District’s alleged actions meet the standard for IIED, Plaintiffs’
 9 Seventh Cause of Action for IIED against the District’s agents must be dismissed.

10 **8. Plaintiffs fail to state a claim for the Eighth Cause of Action for Unjust Enrichment.**

11 Plaintiffs’ Opposition fails to overcome the defects in their Eighth Cause of Action for
 12 Unjust Enrichment as Plaintiffs themselves concede that California law does not recognize unjust
 13 enrichment as an independent cause of action. Despite this, Plaintiffs attempt to reframe their claim
 14 as one for quasi-contract, arguing that the District and its agents unjustly profited from Phillip Bell
 15 III’s athletic talents by enrolling him in football without their consent. (Plaintiffs’ Opposition at
 16 p.24.) However, Plaintiffs fail to allege any facts demonstrating that Defendants’ alleged enrichment
 17 was unjust or that the alleged enrichment came at Plaintiffs’ personal expense.

18 “[Unjust enrichment and restitution] describe a theory underlying a claim that a defendant
 19 has been unjustly conferred a benefit ‘through mistake, fraud, coercion, or request.’” (*Astiana v.*
 20 *Hain Celestial Grp., Inc.*, 783 F.3d 753, 756 (9th Cir. 2015).) Plaintiffs make no allegations of fraud,
 21 coercion, or mistake that would justify restitution. The Opposition merely repeats the conclusory
 22 claim that Defendants unjustly retained benefits at Plaintiffs’ expense while alleging only that
 23 Defendants used Phillip III’s talents, skills, abilities, and likeness to sell tickets and merchandise,
 24 and that Phillip III was a minor who did not receive fair compensation. (Plaintiffs’ Opposition at
 25 p.24.) However, these allegations do nothing to explain how Defendants’ alleged enrichment came
 26 at Plaintiffs’ expense. The mere allegation that Phillip III may not have been compensated in a
 27 manner that Plaintiffs deem fair does not create a claim for unjust enrichment on Plaintiffs’ behalf.
 28 Plaintiffs fail to allege any facts that they, not Phillip III, were financially harmed or deprived of a

1 benefit to which they themselves were legally entitled. This suggests that Plaintiffs' grievance is not
2 that the District was unjustly enriched, but rather that they did not personally receive a share of the
3 purported benefits.

4 Moreover, Plaintiffs' claim for unjust enrichment is completely devoid of any legal support.
5 Plaintiffs cite no statutory authority or any case law that is even remotely similar to support their
6 conclusory assertions that the instant case should be construed as one for quasi-contract. Plaintiffs'
7 Opposition states that "a court may construe the cause of action as a quasi-contract claim seeking
8 restitution" but fails to elaborate any further as to the circumstances under which a court should take
9 such an action. Because Plaintiffs fail to establish a legally recognized cause of action, provide no
10 factual basis to demonstrate that Defendants' alleged enrichment was unjust, offer no legal support
11 for their assertions, and seek restitution for themselves rather than for Phillip III, Plaintiffs' Eighth
12 Cause of Action for Unjust Enrichment must be dismissed.

13 **III. CONCLUSION**

14 FAC is incurably implausible and speculative, and contains other substantial flaws.
15 Defendants respectfully request it be dismissed without leave to amend pursuant to Federal Rule of
16 Civil Procedure 12(b)(3) and Federal Rule of Civil Procedure 12(b)(6).

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19 Dated: February 28, 2025

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20
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